

REMARKS/ARGUMENTS

Claims 1-24 are in the application. The Examiner has rejected Claims 1-24 on the ground of nonstatutory obviousness-type double patenting, as being unpatentable over claims 1-22 of U.S. Patent No. 6,428,240. This rejection is respectfully traversed. There are at least two distinct improvements over the bag system described in Applicants' issued U.S. Patent 6,428,240.

The first improvement involves having an unfilled section at both ends of each bag unit, which makes the bags reversible or bi-directional in their ability to be stacked in any direction, parallel or transverse. No time needs to be spent in making sure they are stacked correctly.

The second improvement is the field fillable bag which was not disclosed in Applicants' earlier U.S. patent.

Claim 1 has been amended to include that each section to be filled is open, with means to seal the opening after it has been filled. That is an improvement of a patentable nature which is not present in Applicants' earlier patent and therefore the double patenting rejection should be withdrawn.

Claims 1-7 and 14-24 were rejected as being anticipated by Heine, et al. With the claims now setting forth that the bags are filled in the field, with the fillable section being open, with

means to seal the opening after it has been filled, the claims clearly define over the device of Heine, et al. Heine's device is fully constructed prior to being taken to the beach and fastened in some manner to the beach, so that it will not be washed out to sea. The compartments of Heine's device are filled with entangled ribbons of thermoplastic material, for the purpose of retarding erosion. They are uniformly spread out over the beach, not stacked, for the purpose of retarding erosion. They operate by the mats becoming filled with sand within a short time, and by their nature and because of the fact that they are filled with strips of fabric, are clearly not water tight and not usable for blocking the flow of water. In fact, their intent is to allow water to freely flow through.

Once in place, the mats of Heine, et al are not intended to be moved. Heine even speculates that as one layer of the mats becomes covered, that is with sand, it is possible to put one or more mats on top of the first ones so that they all become filled with sand in the same way, effectively reducing the erosion of the beaches.

In addition, the mats of Heine, et al. are made from an open net weave material, intended to allow the accumulation or natural inflow of sand, while the water flows through. Heine's mats have no open side nor any means of closing any openings. Once filled with sand, as it accumulates in the compartments of the mats, the

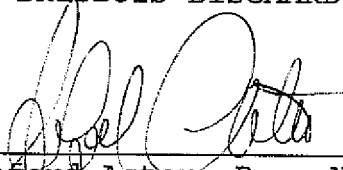
mats would be much too heavy for one person to move, whereas Applicants' sandbags are designed so that one man can lift one and move it.

Claim 14 has been amended to be a method claim for forming a sandbag structure. Claim 14 includes the method of bringing the sandbags unfilled to the site or field, where they are filled, sealed and then stacked. Claims 21-24 have been canceled. In view of the amendments to the claims and the remarks set forth, all of the claims should be in condition for allowance and an early allowance is respectfully requested.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Sanford Astor (Reg. No. 20,748) at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

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